

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

May 11, 2020

SEAN F. McAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

v.

ALVIN LEE GUAJARDO,

Defendant.

No. 2:08-CR-2072-EFS-1

**ORDER GRANTING
DEFENDANT'S MOTION TO
RENEW DEFENDANT'S MOTION
REQUESTING THE COURT
COMPEL THE BOP TO ADJUST
HIS SENTENCE PURSUANT TO
THIS COURT'S ORDER DATED
JULY 2, 2015, AND 3582(C)(2)**

Before the Court, without oral argument, is Defendant Alvin Lee Guajardo's Motion to Renew his prior motion requesting the Court compel the BOP to adjust his sentence. ECF No. 136. On March 24, 2009, the Court sentenced Defendant to 180 months imprisonment. On July 2, 2015, the Court granted Defendant a two-level reduction in his Guidelines sentence pursuant to 18 U.S.C. § 3582(c)(2). ECF No. 130 (Attachment A). This resulted in a reduction of Defendant's previously imposed sentence of imprisonment of 180 months to 168 months. *Id.* This reduction was based on a reduction in the applicable Guidelines' imprisonment range from 210-262 months to 168-210 months. Defendant's applicable Guidelines' imprisonment range was based on his Criminal History Category III and his Total

1 Offense Level, following a “grouping” or multi-count adjustment to the offense
2 levels for his individual counts.

3 On October 11, 2019, Defendant asked the Court to compel the BOP to
4 reduce his sentence to 168 months per the Court’s July 2, 2015 Order. ECF Nos.
5 130 & 134. The Court denied Defendant’s motion as moot, explaining that the BOP
6 website appeared to reflect that Defendant’s sentence had been adjusted by the
7 BOP pursuant to the Court’s order dated July 2, 2015, with leave to renew if new
8 information was discovered reflecting that the BOP had not reduced his sentence to
9 168 months. ECF No. 135.

10 Defendant again asks the Court to compel the BOP to reduce his sentence to
11 168 months. ECF No. 136. Upon further review, it appears that the BOP reduced
12 Defendant’s sentence from 180 months to 168 months for Count 1, but did not
13 reduce Defendant’s sentence for Counts 6 and 7.¹ According to the Court’s July 2,
14 2015 Order, the Court reduced Defendant’s sentence from 180 months to 168
15 months, concurrent on all counts. *See* ECF Nos. 132 & 133. This is because
16 Defendant’s Guidelines’ imprisonment range for *all* counts was based on a multi-

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20 ¹ Defendant pled guilty to Count One (Conspiracy to Distribute a Controlled
21 Substance in violation of 21 U.S.C. § 845) and Counts Six and Seven (Assault on an
22 Officer by Using a Dangerous Weapon in violation of 18 U.S.C. § 111(a)(1) & (b)).

count grouping adjustment.² Accordingly, Defendant's Guidelines' range for all counts, including Counts 6 and 7, was reduced as a result of the two-level reduction in the Guidelines pursuant to 18 U.S.C. § 3582(c)(2). Thus, the Court grants Defendant's motion and directs the BOP to reduce Defendant's sentence for Counts 6 and 7 from 180 months to 168 months, to be served concurrently to each other and the 168-month sentence on Count 1.

IT IS HEREBY ORDERED:

1. Defendant's Motion to Review his Prior Motion Requesting the Court Compel the BOP to Adjust his Sentence Pursuant to this Courts Order Dated July 2, 2015 and 3582(c)(2), **ECF No. 136**, is **GRANTED**.

2. The U.S. Bureau of Prisons is directed reduce Defendant's sentence for Count 6 and Count 7 from 180 months to 168 months, to be served concurrently to each other and with the 168-month sentence on Count 1.

IT IS SO ORDERED. The Clerk's Office is directed to enter this Order and provide copies to Defendant, counsel, the U.S. Probation Office, and the U.S. Bureau of Prisons.

DATED this 11th day of May 2020.

s/Edward F. Shea

EDWARD F. SHEA
Senior United States District Judge

² In fact, without Count 1, Defendant's Guidelines' imprisonment range for Counts 6 and 7 would have been less because his total adjusted offense level would have been less